



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Blue Ridge Regional Office

www.deq.virginia.gov

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO Pittsylvania County for Pittsylvania County Landfill Permit No. 571

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1185 and 10.1-1455 C and F between the Waste Management Board and Pittsylvania County for the purpose of addressing violations of the Virginia Waste Management Act and the Virginia Solid Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "BRRO - Lynchburg" means the Blue Ridge Regional Office of DEQ located in Lynchburg, Virginia.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1401 and 10.1-1184.
3. "County" means Pittsylvania County, Virginia.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Facility" means the Pittsylvania County Landfill, Permit No.571, which is located in the County, and is owned and operated by the County.
7. "Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials from such waste. Leachate and any material with which it is mixed is solid waste. *See* 9 VAC 20-80-10.
8. "Order" means this document, also known as a Consent Order.
9. "VAC" means the Virginia Administrative Code.
10. "VSWMR" or "Regulations" means the Virginia Solid Waste Management Regulations 9 VAC 20-80-10 *et seq.*
11. "Va. Code" means the Code of Virginia (1950), as amended.

SECTION C: Findings of Fact and Conclusions of Law

1. On November 21, 1987, Pittsylvania County was granted Permit No. 571 to operate a Sanitary Landfill by the Virginia Department of Waste Management, predecessor-in-interest to the Department.
2. The post-closure care period for the Phase I cell began on August 9, 2007. The Facility's Permit and Post-Closure Care Plan as well as the VSWMR require proper management of landfill leachate in accordance with 9 VAC 20-80-250 B 11, C 10 and F, as well as 20-80-290.
3. On March 21, 2008, Department staff conducted an unannounced compliance inspection of the Facility and identified a seep along the base of Phase I. The seep was observed entering the Facility's stormwater conveyance system, which drains to a sedimentation pond prior to potentially discharging to a wetland area adjacent to the Bannister River. It was not determined at the time of the inspection that the seep was leachate from the Phase I waste cell.
4. The County's environmental consultant sampled the seep in two locations for chemical analysis on March 25 and April 17, 2008. The analysis results indicated that the seep was contaminated with metals and organic constituents, and represented a leachate outbreak from Phase I.
5. The County conducted an investigation to determine the cause of the leachate outbreak, and discovered that the leachate pump impeller had corroded and that the pump was no

longer pumping leachate from Phase I. During the course of the investigation, the County estimated that a significant volume of leachate had built up in the base of the cell due to failure of the impeller on the leachate pump. Although Facility personnel conducted periodic checks on the leachate pump, the procedures were not sufficient to detect failures of this nature.

6. The County has replaced the leachate pump impeller; installed flow meters in order to monitor total volume of leachate pumped, and instituted procedures to check the leachate flow meters on a weekly basis.
7. 9 VAC 20-80-250 C 10 states, "Solid waste shall not be deposited in, nor shall it be permitted to enter any surface waters or ground waters". Leachate is a solid waste under 9 VAC 20-80-10.
8. On July 23, 2008, BRRO – Lynchburg staff issued Notice of Violation (NOV) number NOV-08-07-SCRO-003 to the County for: failure to properly operate and maintain the facility in accordance with the Permit (9 VAC 20-80-240 B); failure to properly operate and maintain the leachate collection system in accordance with 9 VAC 20-80-290 (9 VAC 20-80-250 F 1 b); and failure to prevent solid waste from entering surface waters (9 VAC 20-80-250 C 10).
9. County representatives and their environmental consultants met with DEQ staff on July 31, 2008 to discuss the noncompliance issues and the corrective action undertaken to address the same.

SECTION D: Agreement and Order

By virtue of the authority granted it in Va. Code § 10.1-1455(F), the Board orders Pittsylvania County, and the County agrees, to perform the actions described in Appendix A of this Order.

In addition, the Board orders Pittsylvania County, and the County voluntarily agrees, to pay a civil charge of **\$1,300** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The payment shall include County's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Pittsylvania County, for good cause shown by the County, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the matters specifically identified herein. This Order shall not preclude the Board, or the Director, from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Pittsylvania County admits to the jurisdictional allegations, findings of fact, and conclusion of law contained herein.
4. Pittsylvania County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Pittsylvania County declares it has received fair and due process under the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, and the Waste Management Act and waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Pittsylvania County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Upon execution of this Order, Pittsylvania County shall be responsible for failure to comply with any of the terms and conditions herein after the date hereof unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The County shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur,

are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Pittsylvania County intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director, or his designee, and Pittsylvania County. Notwithstanding the foregoing, the County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until: Pittsylvania County petitions the Director, or his designee, to terminate the Order after it has completed all requirements of the Order; or the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to the County.

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By its signature below, Pittsylvania County consents to the issuance of this Order.

And it is so ORDERED this 6th day of MARCH, 2009.

Steven A. Dietrich

Steven A. Dietrich, P.E.
Regional Director
Blue Ridge Regional Office
Department of Environmental Quality

Pittsylvania County consents to the issuance of this Order

By:

William D. Sleeper

William D. Sleeper, County Administrator

Date:

1-21-09

Commonwealth of Virginia

City/County of Pittsylvania

The foregoing document was signed and acknowledged before me this 21st day of

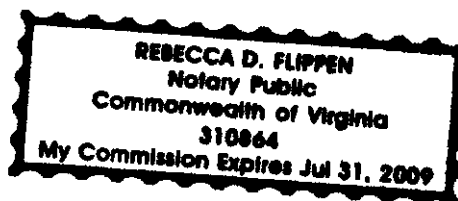
January, 2009, by William D. Sleeper, who is the County

Administrator of Pittsylvania County on behalf of the Board of Supervisors.

Rebecca D. Flippin
Notary Public

My commission expires:

July 31, 2009



**APPENDIX A
SCHEDULE OF COMPLIANCE
For Pittsylvania County
Landfill Permit No. 571**

1. Pittsylvania County shall submit a Minor Permit Amendment to the Department for review and approval, to include modifications to the Facility's Operation and Maintenance (O & M) Manual as well as the Closure/Post-Closure Plan **within ninety (90) days of the effective date of this Order.**
2. The O & M Manual modifications shall address the following areas of concern:
 - a. Inspections – include operator inspection of leachate monitoring and conveyance equipment as applicable for the Facility.
 - b. Leachate Collection and Disposal - Monitoring shall include visual observation of the leachate sump level, leachate pump controls, leachate storage lagoon, and the recording of leachate flow meter readings. A revised checklist shall be submitted to include the additional observations.
 - c. Records – a copy of the operator inspection log and leachate checklist shall be maintained at the Facility and made available for inspection by DEQ personnel.
3. Pittsylvania County shall respond to any Notices of Deficiency (NOD) issued by the Department regarding the Minor Permit Amendment and in accordance with the terms of the NOD, and shall implement the Permit amendment as required.
4. Upon review and approval of the Minor Permit Amendment by the Department, the Amendment shall become an enforceable part of this Order. Failure to implement and maintain the Facility according to the Permit and the approved Amendments may subject the County to additional enforcement action by the Department.

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